
OPINION OF THE PUBLIC ACCESS COUNSELOR

ANN M. ENNIS,
Complainant,

v.

EVANSVILLE VANDERBURGH SCHOOL CORPORA-
TION,
Respondent.

Formal Complaint No.
23-FC-77

Luke H. Britt
Public Access Counselor

BRITT, opinion of the counselor:

This advisory opinion is in response to the formal complaint alleging the Evansville Vanderburgh School Corporation (EVSBC), violated Open Door Laws.¹ EVSBC did not respond despite invitations to do so. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal

¹ Ind. Code § 5-14-3-1-10.

complaint received by the Office of the Public Access Counselor on August 21, 2023.

BACKGROUND

This opinion addresses the issue of public agencies, in this instance a school board's, improper use of consent agendas.

The complainant, Ann M. Ennis, first reached out to this office in April and May 2023, for an informal opinion regarding the use of consent agendas. *Informal Opinion of the Public Access Counselor 23-INF-10* is incorporated by reference.

Based on that opinion, Ennis followed up with a formal complaint on August 12, 2023 with a more recent example of an inappropriate consent agenda.

This office advised the school board of the complaint on August 21, 2023. Despite several subsequent attempts to solicit a response, we were unsuccessful in obtaining an answer from the Evansville Vanderburg School Board.

ANALYSIS

1. The Open Door Law

The Open Door Law (ODL) requires public agencies to conduct and take official action openly, unless otherwise expressly provided by statute, so the people may be fully informed. Ind. Code § 5-14-1.5-1. As a result, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

The Evansville Vanderburgh School Corporation is a public agency for purposes of the ODL; and thus, is subject to the law's requirements. Ind. Code § 5-14-1.5-2. Moreover, the EVSC Board of Trustees is a governing body for purposes of the ODL. *See* Ind. Code § 5-14-1.5-2(b).

As a result, unless an exception applies, all meetings of the Board must be open at all times to allow members of the public to observe and record.

The issue of consent agendas was addressed in *Informal Opinion of the Public Access Counselor 23-INF-10*. There is no need to revisit those issues here. This is especially so given the lack of a response to Ennis' formal complaint.

The items Ennis references are not appropriate for a consent agenda. This office will not make arguments on the behalf of a non-responding agency.

The lack of a response to Ennis' formal complaint is an additional violation. Invitations to respond were issued on August 21 and again on October 3, 2023 and were met with silence in violation of Indiana code section 5-14-5-5².

² A public agency shall cooperate with the counselor in any investigation or proceeding under this chapter

CONCLUSION

Based on the foregoing, it is the opinion of this office that EVSC violated the Open Door Law.

A handwritten signature in black ink, appearing to read 'LH Britt', is positioned above the printed name.

Luke H. Britt
Public Access Counselor

Issued: October 10, 2023